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To: **Andrea Smith**Fax: **571 273 8300**From: **Michael Sharp**Date: **11/14/2005**Re: **Patent Serial - 09/765,985**Pages: **16**

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BROADBANDSTORIES
WHAT'S YOUR STORY?
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November 12, 1999

Some Free Music Sites Start Paying Artists

By MATT RICHTEL 

n the Internet, the starving artist is going a bit less hungry these days. Several Web sites that offer free downloads of music by unsigned artists have started paying the artists a few pennies each time their songs are downloaded.

MP3.com, the largest of these sites, is dividing up \$200,000 among the thousands of artists whose music it offers. Payouts are based on the number of times each artist's songs are downloaded in November. A Texas startup called AMP3.com, whose proprietor claims to have pioneered the concept, has paid artists a nickel per download for the last six months.

While the amount of money is insignificant, the trend it represents may not be. The music sites, which get much of their revenue from advertising, are seeking ways to differentiate themselves and win the loyalty of the garage bands and home-studio enthusiasts that provide their content. The payments indicate they are showing a greater appreciation for the no-name bands that have largely been a commodity on the Web.

If the concept does not turn out to be a profitable one for the sites -- and some industry analysts believe it will not be -- the payouts may just raise the expectations of unsigned musicians, who until now have seemed happy just to get online exposure.

"It's wonderful that they're sharing their wealth with some of the artists," said Ron Wasserman, keyboard player and co-producer for Fisher, one of the most popular bands on MP3.com. "But," he

Digital Music

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added, "if they do it only for one month and pull it back, it'll be a shame." Wasserman said the band is earning roughly \$70 a day from the program.

On Monday, the Internet Underground Music Archive, a unit of EMusic.com that is one of the oldest major music sites, touted its own new revenue-sharing program and criticized MP3.com's one-month-only plan. The site plans to start giving artists 25 percent of the revenue from ads on their pages in December.

MP3.com's promotion is "a good start, but not good enough," said Jeff Patterson, IUMA's founder. "We challenge MP3.com and other emerging artist Web sites to match our offer and pay their unsigned artists fairly for the banners they show on their pages."

The compensation plans highlight the scramble for a viable business model in the online music scene, one of the most dynamic areas of the Internet. Seeking to capitalize on a growing constituency of younger and college-aged listeners, music sites are experimenting with giving away music, hawking singles for download and selling sponsorships and advertising on their pages.

Universal Music Group, the world's largest record company, said last week that it is creating a site to promote the work of little-known bands, making it the first major record label to step into this area. Its site, Jimmy and Doug's Farmclub.com, will have promotional backing from America Online, USA Networks, MTV and the Coca-Cola Co.

The site does not plan to pay each participating band when it launches on Feb. 1, but it will offer popular acts the chance at a contract with a special Universal record label. Universal executives said the site was designed to better connect the company with both new artists and music consumers, while generating advertising revenue.

In a similar plan, Garageband.com will soon award a \$250,000 recording contract to the band on its site with the best reviews from listeners. Next year it plans to award a similar prize every month. The site has devised a "reward points" program that lets visitors earn points for reviewing songs. The points can be traded for prizes like T-shirts and electronics.

The advantage of these plans is that they do not require Web surfers to pay for music, allowing them to listen to artists they may not otherwise have checked out.

"Once you begin [charging] for

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downloads for unsigned artists, it is going to go downhill," said Scott Meldrum, a musician who is a veteran of numerous MP3 sites and a chart-topper at MP3.com.

Offering free music seems to be working for AMP3.com, which serves up as many as 40,000 downloads a day. Michael Sharp, a 41-year-old former musician in Kingwood, Tex., launched the site in February, and now pays artists a nickel each time one of their songs is downloaded.

The site pays for the songs by putting a short ad at the beginning of each downloaded music file. "Whenever you download a song, you hear, 'Things go better with Coca-Cola,' and then the song starts," Sharp said. (Actually, Coca-Cola is not an advertiser, though Microsoft is.)

Sharp said the company is charging 12 cents per ad, meaning artists are getting about 40 percent of the revenue. Sharp called the concept "the perfect Internet business model," because the consumer does not pay for music, but both distributor and artist get paid through advertising dollars.

Industry analysts and competitors are not convinced. One criticism is that these programs do not actually create band loyalty because the deals are not exclusive. Bands continue to have every incentive to sign up with as many sites as possible to distribute their music.

A second criticism is that despite reviews and top-10 lists, the music sites have not really solved the problem of overwhelming listeners with thousands of bands. Finally, and perhaps most pressing, critics assert the sites cannot long go on paying musicians unless they can succeed in establishing consistent revenue streams themselves -- something that would require them to look beyond advertising.

"At some point this doesn't make financial sense," said Mark Mooradian, senior analyst with Jupiter Communications, a research firm in New York. "And it doesn't solve the most critical factor, which is the noise factor."

At the same time, Mooradian called the experiments with advertising-supported models "an interesting foray" into the middle ground of bands between two extremes: bands that have signed contracts with record labels and those that earn nothing churning out songs for the infinite concert hall that is the Net.

Inhabitants of that middle ground could not agree more. Meldrum, who makes \$5 to \$10 a day in download payments from various sites, called the concept "a valiant effort" and said it would let him

Some Free Music Sites Start Paying Artists

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invest in equipment. "Now you can start to justify spending money to make money," he said.

Related Sites

These sites are not part of The New York Times on the Web, and The Times has no control over their content or availability.

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Matt Richtel at mrichtel@nytimes.com welcomes your comments and suggestions.



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McGregor & Associates

Specializing in Intellectual Property

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 Spring, Texas 77380
 281-296-6777
 fax: 281-296-6481
 mcgregor@pdq.net

January 22, 2001

Invoice submitted to:

Kent Lovelace
 For the Fees of Michael A. Sharp
 23589 White Oak Forest Dr.
 Porter TX 77365

Invoice # 10233

Professional services

	<u>Hours</u>	<u>Amount</u>
01/18/01 Convert provisional to regular patent application. Telephone conference with inventor and Kent Lovelace. Study fax of provisional application and drawings. Draft patent application and claims. Discuss with inventor.	6.80	
01/19/01 Continue work on patent application finalize U. S. filing. Prepare PCT Application, Request and related papers, Convert U.S. application to PCT format and revise application to PCT requirements Prepare designation, Power of attorney and Draft assignment document.	5.10	
For professional services rendered	11.90	\$2,082.50
Additional charges:		
	<u>Qty</u>	
01/19/01 Charges by the U.S. Patent and Trademark Office For Filing a regular U.S. patent application MP3 with Ads	1	355.00

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Kent Lovelace

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wire - Patent - MFS Ads

STATEMENT OF UNINTENTIONAL DELAY BY MICHAEL SHARP
November 15, 2005

My serial number is 09/765,985 with a filing receipt date of 01/19/2001

I am requesting that my patent application be revised as it was unintentionally abandoned

I originally invented the application service as a business method with toolsets that would allow multimedia content creators to create revenue streams for their content and be paid by advertisers each time there audio or video was played and or downloaded by Internet or network consumers.

During the process of time since I started this service in 2000 I had millions of sponsored audio downloads, downloaded over the internet by consumers, sponsored by advertisers and paid out large of sums of money to the content suppliers.

Each time a consumer would download a file she would hear an audio ad that said brought to you by an audio sponsor. The platform system tracked stats and paid content creators while charging the sponsors and all the while allowing both to review their stats and royalties in real time in their online admins.

I originally filed for a provisional for the business method and platform in January 2000.

In January of 2001 I hired Martin McGregor as my patent attorney to file the full blown patent.

Mr McGregor was paid to file the patent for me in January 2001 and did so on January 19, 2001.

For the next 3 years I was in close contact with Mr. McGregor and asked him on many occasion in front of my business associate Kent Lovelace Jr. for news regarding the patent and if he had heard from the patent office.

In all of the inquires we were told that the patent office was overburdened with their workload and that it would take a long time (many years) to get an examiner to review my patent application.

About a year ago I had a bit of a falling out with Mr. McGregor and lost some confidence in him and his work ethic. I did not however expect that anything might be wrong or that I should be concerned that he had not followed up on his duty to let me know the status of the patent application.

Recently I decided to take it upon myself to try and find out the status with the patent application.

I went to the U.S.P.T.O.'s web sight where I found a contact number for Mrs. Durham. She was able to locate my serial number and informed me that my patent had been abandoned by Mr. McGregor.

I was shocked to the core and am still in a state of total dismay that the patent had been abandoned. My heart was absolutely broken as I had worked very hard to do all that I could to see that this patent application would become a real patent.

I was informed by Mrs. Durham that indeed he had abandoned the patent and that he was sent out a notice asking for some modification to be done to the drawings.

She said that the request had been made in March of 2001 and that because he did not respond to the request and had not followed up my patent had been abandoned. This all the while, as he reported to Kent and me that there was no news from the patent office, for the next several years and on repeated occasion.

I have no idea why Mr. McGregor never followed up with your office or why he would have abandoned my patent and then alleged that your office never had made any contact with him or even why he never contacted the patent office to get a status report.

However I do know that it was never my intent to abandon the patent and I am pleading with you now that you please revise based on these extenuating circumstances that have not allowed me, to have the opportunity to have a fair examination of my invention and Internet business method.

I am including in this fax a copy of the billing invoice from Mr. McGregor and a copy of the check to purchase the wire that paid Mr. McGregor's invoice. The wire transfer is info is also included.

Very Kind Regards
Michael Sharp
PO Box 101
Porter Tx
77365
281 354 7677
832.527.3530
michael@cebridge.net

Here's an article link on the internet that goes into great detail with regard to my audio ad invention and mentions me in the New York Times online November 12, 1999

<http://www.nytimes.com/library/ttech/99/11/cyber/articles/16music.html>

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Bank Officer: Hope Boyd 231-353-5401

(Bank's ABA #)

BNF CREDIT: McGregor & Adler LLP

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281-296-6777

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